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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934

No. 260

AMAZON PETROLEUM CORPORATION, A CORPORATION; BARNEY COCKBURN, E. J. BOASE, ET AL.,

Petitioners,

v.

ARCHIE D. RYAN, S. D. BENNETT, AND PHIL E. BAER.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT AND BRIEF IN SUPPORT THEREOF.

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Tyler, Texas,
W. EDWARD LEE,
J. N. SAYE,
W. T. SAYE,
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Counsel for Petitioners.

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SUPREME COURT OF THE UNITED STATES

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No. 260

AMAZON PETROLEUM CORPORATION, A CORPORATION; BARNEY COCKBURN, E. J. BOASE, CHARLES M. COPE, AND W. C. TURNBOW PETROLEUM CORPORATION, A CORPORATION; TRANS-STATE CORPORATION, A CORPORATION; A. H. TARVER, PELICAN NATURAL GAS COMPANY, A CORPORATION; DIMHAM OIL CORPORATION, A CORPORATION; ORIENTAL OIL COMPANY, A CORPORATION; K. E. MERREN, CANICO OIL COMPANY, A CORPORATION; ADCO OIL COMPANY, A CORPORATION; LACO PRODUCTION COMPANY, A CORPORATION; LEXENA OIL CORPORATION, A CORPORATION; E. J. MORAN, ORTIZ OIL COMPANY, INC., A CORPORATION; DEERE CREEK OIL COMPANY, A CORPORATION; A. F. ANDING, SOUTHPORT PETROLEUM COMPANY, A CORPORATION; IRONROCK OIL CORPORATION, A CORPORATION; INDEPENDENT PRODUCERS, A CORPORATION; W. HOLLOWAY, IMPERATOR OIL CORPORATION, A CORPORATION; OVERTON REFINING COMPANY, A CORPORATION; KILGORE REFINING COMPANY, A CORPORATION; K. W. P. WITT, O. L. HASTINGS, A. N. LANDES, W. M. McVEY, T. W. OWEN, J. CURTIS SANFORD, ROY HOWELL, YANDELL ROGERS, E. J. BARTELS, W. H. WILSON, T. J. WHITESIDES, GEORGE F. THAGGARD, ARROW REFINING &

PRODUCING COMPANY, A CORPORATION; DOUBLE L OIL COMPANY, A CORPORATION; P. D. BOLEN, CARL DUNHAM, J. M. LAPIN, G. A. FRANKLIN, R. S. HARPER, M. E. TRAPP AND McMURREY CORPORATION, A CORPORATION; COFFMAN PRODUCTION COMPANY, A CORPORATION, AND CEMO PRODUCTION COMPANY, A CORPORATION,

Petitioners,

v.

ARCHIE D. RYAN, S. D. BENNETT, AND PHIL E. BAER.

PETITION FOR WRIT OF CERTIORARI.

MAY IT PLEASE THE COURT:

The petition of Amazon Petroleum Corporation and the other petitioners above named respectfully shows to this Honorable Court:

A.

Statement of the Matter Involved.

The petitioners are oil producers. They own and operate separate oil producing properties in the East Texas oil field. The oil is flowed from the wells into tanks on the property, gauged and delivered from the tanks into the pipe lines of the purchasers. Title passes to the purchaser on delivery.

Petitioners instituted a joint action against the Railroad Commission of Texas, the State law enforcement officers, and the respondents, who are the Federal authorities

charged with the enforcement of the National Industrial Recovery Act, and the Petroleum Code. They alleged:

That the Railroad Commission of Texas, acting in conjunction with the Conservation Boards of other oil producing states, had entered into an illegal plan to limit the production of crude petroleum in the United States to a figure recommended by the Oil States Advisory Committee, and the production in Texas to approximately 900,000 barrels; that respondents were cooperating with the Commission and aiding and assisting it in the enforcement of this plan of curtailment.

That the purpose of this plan was to curtail the production of petroleum to such an extent as to artificially create a market demand for petroleum and its by-products, the objective being the creation and maintenance of high prices; that in furtherance of said scheme the Railroad Commission had put into effect certain so-called "Proration Orders" curtailing the production from petitioners' wells to less than 1% of their producing capacity; that while the Commission purported to be acting under authority of the State conservation law, as a matter of fact, its acts and orders were unauthorized and had no relation to conservation.

That, in furtherance of the same plan, a majority of the oil industry formulated a so-called Code of Fair Competition for the Petroleum Industry, and succeeded in getting it approved by the President; that while respondents claimed to be acting under authority of the National Industrial Recovery Act, as a matter of fact, they were without any lawful authority, and while they claimed to be engaged in regulating interstate commerce, they were in fact attempting to enforce the said plan of curtailment, and the so-called Code of Fair Competition for the Petroleum Industry.

That their wells were capable of producing large quantities of oil in excess of the allowable fixed by the Commission, without causing waste, and without resulting in injury or damage of any kind or character; that they had a ready market for large quantities of oil in excess of what they were permitted to produce; that under the laws of Texas they were the absolute owners of the oil underneath the land covered by their leases, and were lawfully entitled to all the oil which they could capture through their wells, so long as they operated their wells so as not to commit waste, or cause injury or damage to the producing sands or the common reservoir.

That as an incident to the enforcement of said plan, the Honorable Harold L. Ickes, Secretary of the Interior, and Administrator of the Petroleum Code, had promulgated certain rules and regulations, requiring them to furnish reports giving the location of their properties, the allowable fixed for each well, the daily production of each well, and the disposition of the oil; that respondents, acting under the orders of Honorable Harold L. Ickes, were from time to time going upon the properties of petitioners, demanding access to their records, gauging their tanks, and digging up their pipe lines; that respondents were threatening to institute civil actions and criminal prosecutions against petitioners to compel compliance with the orders, rules and regulations of the said Harold L. Ickes, and unless enjoined would institute and prosecute such actions.

Petitioners attacked, first, the validity of the orders, rules and regulations of the Secretary of the Interior, and the Petroleum Code, as being unauthorized by the National Industrial Recovery Act, and, second, the validity of the Act itself, because:

(a) It attempts to delegate the legislative power of Congress to the President;

(b) It is an attempt to vest in the President the powers of a supreme dictator;

(c) It is contrary to the 4th, 5th, 8th, 9th, and 10th amendments to the National Constitution by reason of specific reasons set out in the bill (R. 18-19).

Petitioners prayed for both an interlocutory and permanent injunction. A three-judge court was convened as provided by Section 380 U. S. C. That court *in limine* held that the bill stated two separate causes of action, one against the State officials and one against the Federal officials. It decided the case against the State officials in favor of the defendants, and dismissed the bill, and referred the case against the Federal officials to the District Judge (Amazon Petroleum Corporation *v.* Railroad Commission, 5 Fed. Sup. 633). The District Court rendered a final decree by which the respondents were perpetually enjoined from enforcing Section IV of Article III of the Petroleum Code and Regulation IV of the Secretary of the Interior (R. 175-179). (Opinion of District Judge, 5 Fed. Sup. 639.) On appeal the Circuit Court of Appeals reversed the District Court and ordered the bill dismissed (R. 242-254).

B.

Reasons Relied on for Allowance of the Writ.

I.

The United States Circuit Court of Appeals has, in this case, decided an important question of Federal law which has not been, but should be, settled, by this Court.

II.

The United States Circuit Court of Appeals, in this case, has decided a Federal question in a way probably in conflict with applicable decisions of this Court.

III.

The United States Circuit Court of Appeals has erroneously held:

(a) That subsection 9 (c) of the National Industrial Recovery Act is valid;

(b) That Section 4, Article III, of the Petroleum Code is not involved in this action.

(c) That the rules and regulations of the Secretary of the Interior complained of are reasonable, and are not in violation of the Fourth and Fifth Amendments to the National Constitution.

(d) That petitioners had an adequate remedy at law and were not entitled to injunctive relief.

(e) That the provisions of the Petroleum Code applicable had the force of valid enactments of Congress.

(f) That the acts of respondents were reasonably necessary, or intended to prohibit the shipment in interstate commerce of oil produced in excess of State quotas.

(g) That the regulations of the Honorable Harold L. Ickes, Secretary of the Interior, are authorized by the National Industrial Recovery Act.

WHEREFORE, your petitioners respectfully pray that a writ of certiorari be issued out of and under the seal of this Honorable Court, directed to the United States Circuit Court of Appeals for the Fifth Circuit, commanding that court to certify and send to this Court for its review and determination, on a day certain to be therein named, a full and complete transcript of the record and all proceedings in the case numbered and entitled on its docket No. 7350, Archie D. Ryan, S. D. Bennett and Phil E. Baer, Appellants, *v.* Amazon Petroleum Corporation et al., Appellees,

and that the said decree of the United States Circuit Court of Appeals may be reversed by this Honorable Court, and that your petitioners may have such other and further relief in the premises as to this Honorable Court may seem meet and just; and your petitioners will ever pray.

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W. EDWARD LEE,
J. N. SAYE,
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BRIEF.

I.

The Opinions of the Courts Below.

The opinion in the District Court is reported in Amazon Petroleum Corporation et al. *v.* Railroad Commission et al., 5 Fed. Sup. 639 (R. 204). The opinion of the Circuit Court of Appeals, dated May 22, 1934, has not been officially reported, but appears in the record (R. 242-254).

II.

Jurisdiction.

1. The date of the decree of the Circuit Court of Appeals is May 22, 1934 (R. 254). Petition for rehearing was filed June 11, 1934 (R. 255). It was denied June 29, 1934 (R. 261).

2. Petitioners assert:

(a) That the National Industrial Recovery Act is void in its entirety because it is a delegation by Congress of legislative power to the President;

(b) That, regardless of other sections of the Act, Subsection 9 (c) is void, first, because a delegation of legislative power to the President, and, second, because Congress itself is not authorized to prohibit the shipment of oil in interstate commerce;

(c) That, as a matter of fact, the acts of respondents bear no relation to the regulation of interstate and foreign commerce, and are unreasonable and unnecessary to accomplish that purpose, the real objective being to curtail, regulate and allocate production from petitioners' wells, and thus enforce the Petroleum Code, which results in de-

priving petitioners of their property, and the use thereof, contrary to the Fifth Amendment to the National Constitution; that the enforcement of the National Industrial Recovery Act and the Petroleum Code is an invasion by the National Government of States' rights contrary to the Constitution;

(d) That the regulations requiring reports and inspections are merely incident to the enforcement of the Code, and are, therefore, unauthorized, and, in addition, offend against the Fourth and Fifth Amendments;

(e) That the penalties prescribed are so severe and drastic that they are calculated to affright those affected thereby from applying to the courts to ascertain their rights, and, knowing them, dare maintain them, and that the terms of the Act are so vague and indefinite that it is impossible for those affected thereby to formulate a standard of conduct whereby they may know when they are or are not violating its inhibitions, and for that reason the penalty provisions are void.

The United States Circuit Court of Appeals held Subsection 9 (c) of the National Industrial Recovery Act a valid Act of Congress, and that the reports, inspections and other acts of the respondents were reasonably necessary in the enforcement of that section of the Act. It refused to pass on the validity of the Petroleum Code, but denied injunctive relief against prosecutions for violations of the Code (R. 242-254). It held that inasmuch as the Act provided specific methods of enforcement, those affected would be adequately protected by violating the law, inviting prosecution, and then running the risk of successfully defending (R. 250).

3. The jurisdiction of the Supreme Court is invoked under Section 240 of the Judicial Code, as amended by the Acts of February 13, 1925.

III.

Statement of the Case.

A full statement is set forth in the petition under heading "A".

IV.

Specification of Errors.

For the sake of brevity, petitioners adopt as their specification of errors the assignments under II of heading "B" of their petition.

V.

Summary of Argument.

Point A. The Circuit Court of Appeals has decided an important question of Federal law which has not been, but should be, settled by this Court.

Point B. The Circuit Court of Appeals has decided a Federal question probably in conflict with applicable decisions of this Court.

Point A.

As stated by the Circuit Court of Appeals, the National Industrial Recovery Act is a novel piece of legislation. To say the least, it is a radical departure from our traditions. It is unquestionably an attempt by the National Government to exercise powers heretofore universally believed to have been reserved in the States. It creates and vests in the National Government new and virtually unlimited powers to regulate the minutest details of the business and affairs of men. It abridges and prohibits the exercise of rights which heretofore, under the decisions of this Court, could not be interfered with by the States. If upheld in its entirety, it wipes out state lines, and destroys our dual

system of government. Therefore, it is respectfully submitted that the construction of each provision of the Act is of the utmost importance, and calls for the supervisory powers of this Court. (Applicable parts of the Act appear in the Appendix.)

Point B.

The decision of the Circuit Court of Appeals is in conflict with the decisions of this Court on several points, viz:

First: It held that Subsection 9 (c) of the Act is not a delegation of legislative power. This is in direct conflict with the decisions of this Court in the following cases:

Field v. *Clark,* 143 U. S. 649, 12 S. Ct. 495;
Buttfield v. *Stranahan,* 192 U. S. 470, 24 S. Ct. 349;
Union Bridge Co. v. *United States,* 204 U. S. 364, 27 S. Ct. 367;
St. Louis & Iron Mountain Ry. Co. v. *Taylor,* 210 U. S. 281, 28 S. Ct. 616;
Mutual Film Corporation v. *Industrial Commission,* 263 U. S. 230.

As stated in *Field* v. *Clark, supra*: "That Congress cannot delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution."

It is true that in the above cases, the Court found that Congress had not delegated legislative power, but, on the contrary, had given expression to its legislative will, and directed the President to fill in the details. The enactments were complete. Their enforcement was left to the Executive. In some cases, the operation of the law was contingent on the occurrence of certain events, but upon the happening of such event, no discretion was left to the President.

Not so with the Act under consideration, and particularly Subsection 9 (c). The Act does not prohibit the shipment of excess oil in interstate or foreign commerce. It does not make it unlawful to ship excess oil in interstate or foreign commerce. Neither does it provide that it shall be unlawful or prohibited upon the occurrence of certain events. There is no law on the subject. Today the President has decreed that excess oil shall not be shipped in interstate or foreign commerce. Tomorrow the decree may be vacated. Whether or not the shipment of excess oil in interstate and foreign commerce is prohibited rests entirely within the discretion of the President.

This is also true of the entire National Industrial Recovery Act. Congress enacted nothing. It declared it to be the policy of Congress to remove obstructions from the free flow of commerce, provide for the general welfare by promoting the organization of industry, to induce and maintain united action of labor, etc.

But, to effectuate that policy, Congress enacted nothing. It, in substance, directed the President, collaborating with the various industries of the nation, to formulate such laws and do such things as, in his discretion, might be deemed necessary to carry the declared policy into execution.

It is, therefore, respectfully submitted that if this is not a delegation of the legislative powers of Congress, it would be impossible to select words that would express a delegation.

Second. The trial court found that respondents were, under the guise of regulating interstate commerce, attempting to regulate and curtail production (Findings of Fact, R. 180-184). This, respondents are without authority to do.

Champlin Refining Co. v. *Corporation Commission*, 286 U. S. 210, 52 S. Ct. 559, 76 L. Ed. 1062;

Oliver Iron Mining Co. v. *Lord,* 226 U. S. 172, 43 S. Ct. 526, 67 L. Ed. 526;
Hope Natural Gas Co. v. *Hall,* 274 U. S. 284, 47 S. Ct. 639; 71 L. Ed. 1049;
Foster Fountain Packing Co. v. *Haydel,* 278 U. S. 1, 49 S. Ct. 1, 73 L. Ed. 147;
Utah Power & Light Co. v. *Pfost,* 286 U. S. 165, 52 S. Ct. 548, 76 L. Ed. 1038;
Hammer v. *Dagenhart,* 247 U. S. 251, 38 S. Ct. 529.

It appears to us that the Circuit Court of Appeals bypassed this issue.

Third. The holding that petitioners were not entitled to injunctive relief against civil actions and criminal prosecutions is in conflict with numerous decisions of this Court, such as:

Ex parte Young, 209 U. S. 123, 28 S. Ct. 441;
Philadelphia Co. v. *Stimson,* 223 U. S. 605, 32 S. Ct. 340.

Fourth. It is very doubtful that Congress has the power to prohibit the shipment of oil in interstate and foreign commerce.

Hammer v. *Dagenhart,* 247 U. S. 251, 38 S. Ct. 529;
Brooks v. *United States,* 267 U. S. 432, 45 S. Ct. 345.

Fifth. Admittedly, the petitioners are not engaged in the business of transporting oil in interstate or foreign commerce. The reports which they are required to furnish, and the inspections and visitations to which their properties are subjected, are conceded to be for the purpose of obtaining evidence against others who might be engaged in transporting oil in interstate and foreign commerce. This being true, the acts of the respondents are unauthorized, and the decision of the Circuit Court of Appeals is clearly in conflict with the holding of this Court in *Federal*

Trade Commission v. *American Tobacco Co.*, 264 U. S. 298, 44 S. Ct. 336.

For convenience of the Court, applicable parts of the Recovery Act and the Petroleum Code are affixed as an appendix; also nine copies of petitioners' brief in the Circuit Court of Appeals.

Conclusion.

It is therefore respectfully submitted that this case is one calling for the exercise by this Court of its supervisory powers, in order that the petitioners may have the relief awarded them by the District Court, and that to such end a writ of certiorari should be granted and this Court should review the decision of the United States Circuit Court of Appeals and finally reverse it.

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APPENDIX A.

Federal Industrial Control Act.

"The National Industrial Recovery Act."

Approved by the President, June 16, 1933, at 11:55 a. m., E. S. T.

(Public—No. 67—73d Congress.)

(H. R. 5755.)

An Act to encourage national industrial recovery, to foster fair competition and to provide for the construction of certain useful public works, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Title I.

Industrial Recovery.

Declaration of Policy.

Sec. 1. A national emergency productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare, and undermines the standards of living of the American people, is hereby declared to exist. It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue

restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

Adminstrative Agencies.

Sec. 2 (a) To effectuate the policy of this title, the President is hereby authorized to establish such agencies, to accept and utilize such voluntary and uncompensated services, to appoint, without regard to the provisions of the civil service laws, such officers and employees, and to utilize such Federal officers and employees, and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers and employees so appointed.

(b) The President may delegate any of his functions and powers under this title to such officers, agents, and employees as he may designate or appoint, and may establish an industrial planning and research agency to aid in carrying out his functions under this title.

(c) This title shall cease to be in effect and any agencies established hereunder shall cease to exist at the expiration of two years after the date of enactment of this Act, or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by section 1 has ended.

Codes of Fair Competition.

Sec. 3. (a) Upon the application to the President by one or more trade or industrial associations or groups, the President may approve a code or codes of fair competition for the trade or industry or subdivision thereof, represented by the applicant or applicants, if the President finds (1) that such associations or groups impose no inequitable restrictions on admission to membership therein and are

truly representative of such trades or industries or subdivision thereof, and (2) that such code or codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title: Provided, That such code or codes shall not permit monopolies or monopolistic practices; Provided, further, That where such code or codes affect the services and welfare of persons engaged in other steps of the economic process, nothing in this section shall deprive such persons of the right to be heard prior to approval by the President of such code or codes. The President may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such code, as the President in his discretion deems necessary to effectuate the policy herein declared.

(b) After the President shall have approved any such code, the provisions of such code shall be the standards of fair competition for such trade or industry or subdivision thereof. Any violation of such standards in any transaction in or affecting interstate or foreign commerce shall be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act, as amended but nothing in this title shall be construed to impair the powers of the Federal Trade Commission under such Act, as amended.

(c) The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of any code of fair competition approved under this title; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations.

(d) Upon his own motion, or if complaint is made to the President that abuses inimical to the public interest and

contrary to the policy herein declared are prevalent in any trade or industry or subdivision thereof, and if no code of fair competition therefor has theretofore been approved by the President, the President, after such public notice and hearing as he shall specify, may prescribe and approve a code of fair competition for such trade or industry or subdivision thereof, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of this section.

(e) On his own motion, or if any labor organization, or any trade or industrial organization, association, or group, which has complied with the provisions of this title, shall make complaint to the President that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production of any competitive article or articles and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of any code or agreement under this title, the President may cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, and if, after such investigation and such public notice and hearing as he shall specify, the President shall find the existence of such facts, he shall, in order to effectuate the policy of this title, direct that article or articles concerned shall be permitted entry into the United States only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any specified period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any code or agreement made under this title. In order to enforce any limitations imposed on the total quantity of imports, in any specified period or periods, of any article or articles under this subsection, the President may forbid the importation of such article or articles unless the importer shall have first obtained from the Secretary of the Treasury a license pursuant to such regulations as the President may prescribe. Upon information of any action by the

President under this subsection the Secretary of the Treasury shall, through the proper officers, permit entry of the article or articles specified only upon such terms and conditions and subject to such fees, to such limitations in the quantity which may be imported, and to such requirements of license, as the President shall have directed. The decision of the President as to facts shall be conclusive. Any condition or limitation of entry under this subsection shall continue in effect until the President shall find and inform the Secretary of the Treasury that the conditions which led to the imposition of such condition or limitation upon entry no longer exists.

(f) When a code of fair competition has been approved or prescribed by the President under this title, any violation of any provision thereof in any transaction in or affecting interstate or foreign commerce shall be a misdemeanor and upon conviction thereof an offender shall be fined not more than $500 for each offense, and each day such violation continues shall be deemed a separate offense.

Agreements and Licenses.

Sec. 4. (a) The President is authorized to enter into agreements with, and to approve voluntary agreements between and among, persons engaged in a trade or industry, labor organizations, and trade or industrial organizations, associations, or groups, relating to any trade or industry, if in his judgment such agreements will aid in effectuating the policy of this title with respect to transactions in or affecting interstate or foreign commerce, and will be consistent with the requirements of clause (2) of subsection (a) of section 3 for a code of fair competition.

(b) Whenever the President shall find that destructive wage or price cutting or other activities contrary to the policy of this title are being practiced in any trade or industry or any subdivision thereof, and, after such public notice and hearing as he shall specify, shall find it essential to license business enterprises in order to make effective a code of fair competition or an agreement under this title or otherwise to effectuate the policy of this title, and

shall publicly so announce, no person shall, after a date fixed in such announcement, engage in or carry on any business, in or affecting interstate or foreign commerce, specified in such announcement, unless he shall have first obtained a license issued pursuant to such regulations as the President shall prescribe. The President may suspend or revoke any such license, after due notice and opportunity for hearing, for violations of the terms or conditions thereof. Any order of the President suspending or revoking any such license shall be final if in accordance with law. Any person who, without such a license or in violation of any condition thereof, carries on any such business for which a license is so required, shall, upon conviction thereof, be fined not more than $500, or imprisoned not more than six months, or both, and each day such violation continues shall be deemed a separate offense. Notwithstanding the provisions of section 2 (c), this subsection shall cease to be in effect at the expiration of one year after the date of enactment of this Act or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by section 1 has ended.

Sec. 5. While this title is in effect (or in the case of a license, while section 4 (a) is in effect) and for sixty days thereafter, any code, agreement, or license approved, prescribed, or issued and in effect under this title, and any action complying with the provisions thereof taken during such period, shall be exempt from the provisions of the antitrust laws of the United States.

Nothing in this Act, and no regulation thereunder, shall prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof; nor shall anything in this Act, or regulation thereunder, prevent anyone from marketing or trading the produce of his farm.

Limitations Upon Application of Title.

Sec. 6. (a) No trade or industrial association or group shall be eligible to receive the benefit of the provisions of this title until it files with the President a statement con-

taining such information relating to the activities of the association or group as the President shall by regulation prescribe.

(b) The President is authorized to prescribe rules and regulations designed to insure that any organization availing itself of the benefits of this title shall be truly representative of the trade or industry or subdivision thereof represented by such organization. Any organization violating any such rule or regulation shall cease to be entitled to the benefits of this title.

(c) Upon the request of the President, the Federal Trade Commission shall make such investigations as may be necessary to enable the President to carry out the provisions of this title, and for such purposes the Commission shall have all the powers vested in it with respect of investigations under the Federal Trade Commission Act, as amended.

Sec. 7. (a) Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(b) The President shall, so far as practicable, afford every opportunity to employers and employees in any trade or industry or subdivision thereof with respect to which the conditions referred to in clauses (1) and (2) of subsection (a) prevail, to establish by mutual agreement, the standards as to the maximum hours of labor, minimum

rates of pay, and such other conditions of employment as may be necessary in such trade or industry or subdivision thereof to effectuate the policy of this title; and the standards established in such agreements, when approved by the President, shall have the same effect as a code of fair competition, approved by the President under subsection (a) of section 3.

(c) Where no such mutual agreement has been approved by the President he may investigate the labor practices, policies, wages, hours of labor, and conditions of employment in such trade or industry or subdivision thereof; and upon the basis of such investigations, and after such hearings as the President finds advisable, he is authorized to prescribe a limited code of fair competition fixing such maximum hours of labor, minimum rates of pay, and other conditions of employment in the trade or industry or subdivision thereof investigated as he finds to be necessary to effectuate the policy of this title, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of section 3. The President may differentiate according to experience and skill of the employees affected and according to the locality of employment; but no attempt shall be made to introduce any classification according to the nature of the work involved which might tend to set a maximum as well as a minimum wage.

(d) As used in this title, the term "person" includes any individual, partnership, association, trust, or corporation; and the terms "interstate and foreign commerce" and "interstate or foreign commerce" include, except where otherwise indicated, trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States.

Application of Agricultural Adjustment Act.

Sec. 8. (a) This title shall not be construed to repeal or modify any of the provisions of title I of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes," approved May 12, 1933; and such title I of said Act approved May 12, 1933, may for all purposes be hereafter referred to as the "Agricultural Adjustment Act."

(b) The President may, in his discretion, in order to avoid conflicts in the administration of the Agricultural Adjustment Act and this title, delegate any of his functions and powers under this title with respect to trades, industries, or subdivisions thereof which are engaged in the handling of any agricultural commodity or product thereof, or of any competing commodity or product thereof, to the Secretary of Agriculture.

Oil Regulation.

Sec. 9 (a) The President is further authorized to initiate before the Interstate Commerce Commission proceedings necessary to prescribe regulations to control the operations of oil pipe lines and to fix reasonable, compensatory rates for the transportation of petroleum and its products by pipe lines, and the Interstate Commerce Commission shall grant preference to the hearings and determination of such cases.

(b) The President is authorized to institute proceedings to divorce from any holding company any pipe-line company controlled by such holding company which pipe-line company by unfair practices or by exorbitant rates in the transportation of petroleum or its products tends to create a monopoly.

(c) The President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage

in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder, by any board, commission, officer, or other duly authorized agency of a State. Any violation of any order of the President issued under the provisions of this subsection shall be punishable by fine of not to exceed $1,000, or imprisonment for not to exceed six months, or both.

Rules and Regulations.

Sec. 10. (a) The President is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this title, and fees for licenses and for filing codes of fair competition and agreements, and any violation of any such rule or regulation shall be punishable by fine of not to exceed $500 or imprisonment for not to exceed six months, or both.

(b) The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under this title; and each agreement, code of fair competition, or license approved, prescribed, or issued under this title shall contain an express provision to that effect.

APPENDIX B.

Petroleum Code.

Article III.

Production.

Section 1. The President is hereby requested, after such investigation and hearing as is prescribed by, and subject to the limitations contained in, Title 1 of the National Industrial Recovery Act, to limit imports of crude petroleum and petroleum products for domestic consumption to volumes bearing such ratio to the estimated volume of domestic production as will effectuate the purposes of this Code and the National Industrial Recovery Act.

Section 2. Withdrawals of crude oil from storage shall be subject to approval by the Planning and Coordination Committee but for the remainder of 1933 shall be limited in the aggregate to an average not in excess of 100,000 barrels daily. Additions to storage beyond the necessary limits of fluctuations in working stocks shall be made only with the approval of the Planning and Coordinating Committee.

Section 3. Required production of crude oil to balance consumer demand for petroleum products shall be estimated at intervals by a Federal Agency designated by the President. In estimating such required production, due account shall be taken of probable withdrawals from storage and of anticipated imports. The required production shall be equitably allocated among the several States by the Federal Agency. The estimates of required production and the allocations among the States shall be submitted to the President for approval, and, when approved by him, shall be deemed to be the net reasonable market demand, and may be so certified by the Federal Agency. The allocations when approved by the President shall be recommended as the operating schedule for the producing States and for the industry and thereupon Section 4 of this Article shall apply. In any States where oil is produced on account of back allowables, total current allowables shall be reduced accordingly.

Section 4. The subdivision into pool and/or lease and/or well quotas of the production allocated to each State is to

be made within the State. Should quotas allocated in conformity with the provisions of this Section and/or Section 3 of Article III of this Code not be made within the State or if the production of petroleum within any State exceeds the quota allocated to said State, the President may regulate the shipment of petroleum or petroleum products in or affecting interstate commerce out of said State to the extent necessary to effectuate the purposes of the National Industrial Recovery Act and/or he may compile such quotas and recommend them to the State Regulatory Body in such State, in which event it is hereby agreed that such quotas shall become operating schedules for that State.

If any subdivision into quotas of production allocated to any State shall be made within a State any production by any person, as person is defined in Article I, Section 2 of this Code in excess of any such quota assigned to him shall be deemed an unfair trade practice and in violation of this Code.

Section 5. In any State in which no regulatory body or officer charged with the duty of allocating quotas within said State exists, and under the laws of which any person in any trade or industry within said State is required to comply with the terms of any Code of Fair Competition for such trade or industry approved under Title I of the National Industrial Recovery Act, the President may designate an agency within such State to compile quotas within said State. Such compilations, upon approval by the President, shall become operating schedules for the petroleum industry within said State. If any subdivision into quotas of production allocated to any such State shall be made within the State, any production by any person, as person is defined in Article I, Section 3 of this Code in excess of any such quota assigned to him shall be deemed as unfair trade practice and in violation of this Code; and, further, persons engaged in the petroleum industry or any branch thereof in any State may adopt a supplemental Code for that State, to be effective when approved by the President, covering any matter relating to the petroleum industry not in conflict with the provisions of this Code.